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PTO/SB/26 (05-06)

Docket Number (Optional)  
020534-00050000

**TERMINAL DISCLAIMER TO OBLIGATE A DOUBLE PATENTING  
REJECTION OVER A PRIOR PATENT**

In re Application of: Forman, Michael R. et al.

Application No. 09/851,372

Filed: May 7, 2001

For: Combination Ionizing Radiation and Radiosensitizer Delivery Devices and Methods for Inhibiting Hyperplasia

The owner\*, Xoft microTube, Inc. of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 to 156 and 173, as presently shortened by any terminal disclaimer, of prior Patent No. 6,537,195. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

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2.  The undersigned is an attorney of record.

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